



STATE OF DELAWARE


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## **MEMORANDUM**

**TO:** The Chairman and Members of the Commission

**FROM:** Kevin Neilson, Regulatory Policy Administrator 

**DATE:** December 18, 2017

**SUBJECT:** IN THE MATTER OF THE APPLICATION OF MAGICJACK VOCALTEC LTD. ("MJVT") AND B. RILEY FINANCIAL, INC. FOR INDIRECT CHANGE IN CONTROL OF MJVT AND ITS INDIRECT WHOLLY-OWNED SUBSIDIARY YMAX COMMUNICATIONS CORP. (FILED DECEMBER 14, 2017) – PSC DOCKET NO. 17-1208

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### **Application**

On December 14, 2017, magicJack VocalTec Ltd. ("MJVT" or "Transferor") and B. Riley Financial, Inc., ("B.Riley" or "Transferee" and collectively with MJVT, the "Applicants"), filed an application ("Application") with the Delaware Public Service Commission ("PSC" or "Commission") pursuant to 26 *Del. C.* § 215, seeking approval of an indirect transfer of ownership of MJVT and its indirect wholly-owned subsidiary YMax Communications, Corp. ("YMax") (the "Transaction").

### **Applicants**

#### **magicJack VocalTech Ltd.**

MJVT is a publicly traded company that is incorporated under the laws of Israel with headquarters at 12 Haomanut Street, 2<sup>nd</sup> Floor, Poleg Industrial Zone, Netanya, Israel 4250445. MJVT and its subsidiaries are a vertically integrated group of companies that offers Voice-Over-Internet-Protocol services and related equipment.

#### **YMax Communications, Corp.**

YMax is a wholly-owned direct subsidiary of YMax Corporation ("YMax Corp"), a Delaware corporation and wholly-owned direct subsidiary of MJVT. YMax is a Delaware corporation located at 560 Village Blvd., Suite 120, West Palm Beach, FL 33409. YMax was authorized to provide local exchange telecommunications services in Delaware on May 23, 2006

pursuant to Order No. 6913 in PSC Docket No. 06-67.

### **B. Riley Financial, Inc.**

B. Riley is a publicly traded diversified financial services company that takes a collaborative approach to the capital raising and financial advisory needs of public and private companies and high net worth individuals.<sup>1</sup> B. Riley is a Delaware corporation with principal headquarters located at 21255 Burbank Blvd., Suite 400, Woodland Hills, California 91367. B. Riley operates through several wholly-owned subsidiaries, including B. Riley Principal Investments, LLC (“BRPI”), which engages in proprietary investments in other businesses. BRPI is a Delaware limited liability company.

### **Transaction**

On November 9, 2017, MJVT, B. Riley, and B. Riley’s wholly-owned indirect subsidiary B. R. Acquisition Ltd. (“Merger Sub”) entered into an agreement and plan of merger (“Agreement”) whereas Merger Sub will merge with and into MJVT, with MJVT as the surviving corporation. As a result of the Transaction, MJVT will become a wholly-owned, indirect subsidiary of B. Riley through YMax Corp., MJVT, and BRPI.<sup>2</sup>

### **Public Interest**

The Applicants assert that the public interest will be served. According to the Application, B. Riley is well-qualified managerially, technically, and financially to own and control MJVT and YMax. B. Riley and its subsidiaries are experienced investors and are managed by top professionals with decades of expertise in the financial, technology, research, and communications sectors. MJVT and YMax will be able to draw upon the managerial and communication experience of B. Riley’s management team. The Applicants further assert that MJVT and JMax will also benefit from improved access to capital, enhancing their competitive position in the communications service space.

According to the Applicants, the Transaction will have no adverse impact on the customers of YMax. The change in ultimate control of YMax will occur at the parent level and will not involve the assignment of operating authority, assets, or customers. Immediately following the transaction, YMax will continue to provide competitive and innovative services to existing customers at the same rates, terms and conditions in the same geographic areas as currently provided. The Transaction will be transparent to customers and is not expected to result in the discontinuance, reduction, loss, or impairment of service to any customer and will not harm competition because B. Riley and YMax do not currently compete in the provision of any telecommunications offerings.

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<sup>1</sup> Bryant Riley, Chairman and Chief Executive Officer of B. Riley, holds an approximate 16 percent ownership interest in the company. No other individuals or entities hold a 10 percent or greater ownership interest in B. Riley.

<sup>2</sup> Immediately upon closing, B. Riley may undertake an internal corporate reorganization pursuant to which YMax Corp. would become a wholly-owned direct subsidiary of BRPI.

### **Staff Recommendation**

Applications seeking approval of a change in control by large multi-state resellers of competitive intrastate telecommunications services technically come under the provisions of 26 Del. C. §215 because the companies are deemed to be public utilities. The Applicants have represented that B. Riley and its subsidiaries have the managerial, technical, and financial experience to acquire control of MJVT and YMax. The Commission has previously allowed such applications for approval of changes in control to become effective by statutory approval without Commission action. The result seems appropriate under the circumstances. Staff, therefore, recommends that the Commission not act on this Application. Under 26 Del. C. §215(d), the effect will be that the Application is deemed to be approved by the Commission. Staff will also acquire verification from the Applicants that the Proposed Transaction has been completed.